RB-2000-03 Guidance on Credit Union Names

INTRODUCTION

The purpose of this Bulletin is to provide credit unions information and guidance on the selection and use of corporate names. As required by the Texas Finance Code, a credit union's corporate name must include the words "credit union" and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner. Normally, the commissioner cannot issue a certificate of incorporation to the credit union or approve the change of the name of the credit union if it would have the same name as another credit union or a name so nearly resembling the name of another credit union as to be calculated to deceive.

A credit union may only have one corporate name. The credit union must use its official corporate name in all official or legal communications or documents. For example, a credit union must use its official corporate name in any communications with the Department or other government agencies. Further, a credit union must use the official corporate name in legal documents such as consumer disclosures, contracts (including loans, lines of credit, and mortgages), real estate titles, lien registrations, securities, and all other documents purporting to bind the credit union to legal responsibilities or obligations. A credit union may, however, use an assumed name in other forms of communication, such as advertising.<

A credit union may not do business under any name other than its corporate name until it has registered the designation with the Secretary of State and the appropriate county clerk, and has received from the commissioner a certificate of authority to use an assumed business name. The commissioner may not approve an assumed business name if the designation might mislead the public or is not readily distinguishable from, or is deceptively similar to, a name of another credit union lawfully doing business and that has established an office in this state unless the affected credit union consents, in writing, to the use of the name in question.

GENERAL GUIDELINES

The following guidelines will be the basis for the Department's approval of an assumed name or any future changes to a credit union's corporate name.

- 1. The corporate name is the initial means of identifying a legal entity; therefore, each name must be distinctive and distinguishable from existing credit unions' names.
- 2. The name may not be one that might falsely imply governmental affiliation.
- 3. Names must consist of letters of the English alphabet or a combination of such

letters and Arabic numerals.

1. Letters of the English alphabet will be used in every case. There are no guidelines with respect to capitalization, type, face, or font.

Arabic numerals include: 0, 1, 2, 3, 4, 5 6, 7, 8, 9.

- 1. A space or spaces after words, letters or numerals may be considered as part of the name.
- 2. Roman numerals will be treated as letters of the English alphabet, but no name may consist entirely of Roman numerals.
- 3. A proposed name is deemed to be the "same" or "so nearly resembling" an existing credit union name if:
- 4. The difference in the names exists in the use of

different articles of speech.

Example: THE EDUCATION CREDIT UNION is deemed to be the "same" as EDUCATION CREDIT UNION.

1. The difference exists in the use of punctuation, spaces and symbols.

Example:> ABC CREDIT UNION is deemed to be the "same" as AB&C CREDIT UNION, A B C CREDIT UNION, A&BC CREDIT UNION, A.B.C. CREDIT UNION, A-B-C CREDIT UNION, or A*B*C CREDIT UNION.

1. The difference exists in the presence or absence of letters which do not sufficiently alter the names to make them readily distinguishable.

Example: EXXON CREDIT UNION is deemed to be the "same" as EXON CREDIT UNION.

1. The difference exists in obvious or well-known variant spellings which have the same pronunciation.

Example: SAGUARO CREDIT UNION is deemed to be the "same" as SAHUARO CREDIT UNION.

1. The difference exists in the use of words with essentially the same meaning.

Example: >HOUSTON REALTY CREDIT UNION is deemed to be the "same" as HOUSTON REAL ESTATE CREDIT UNION.

- 5. The adding of a city, direction, or other geographical designation to an existing corporate name does not create a more descriptive name; i.e., MEMBERS CREDIT UNION is deemed to be "so nearly resembling" MEMBERS CREDIT UNION OF DALLAS.
- 6. Only the proposed name and existing names in the state of Texas are considered when determining name availability.

OTHER CONSIDERATIONS

The Department's approval of an assumed name, corporate name, or a change in such names is only intended to eliminate false, misleading, or deceptive practices. Each credit union requesting a name change is also responsible for ensuring that the proposed name is in compliance with all other state or federal law applicable to corporate names. As a result, credit unions are advised to seek legal counsel and perform independent research before seeking approval of an assumed name or corporate name.